

INTERNET
FORM NLRB-501
(2-08)UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER**DO NOT WRITE IN THIS SPACE**

Case

Date Filed

13-CA-269890

12/7/2020

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHTa. Name of Employer
Civis Analytics, Inc.

b. Tel. No. (312) 985-0173

c. Cell No.

f. Fax No.

d. Address (Street, city, state, and ZIP code)

e. Employer Representative

200 West Monroe Street
Chicago, IL 60606

Dan Wagner, CEO

g. e-Mail

(b) (6), (b) (7)(C)@civisanalytics.com

h. Number of workers employed
Approximately 210

i. Type of Establishment (factory, mine, wholesaler, etc.)

Office setting

j. Identify principal product or service

Data science software and consulting

k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) 1, 3 of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

On or about (b) (6), (b) (7)(C) 2020, Civis Analytics terminated seven employees for discussing terms and conditions of employment with each other and bringing their concerns about them to management, in violation of Section 8(a)(1) of the Act.

On or about (b) (6), (b) (7)(C) 2020, Civis Analytics terminated seven employees for discussing union organizing at Civis, in violation of Section 8(a)(3) of the Act.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

(b) (6), (b) (7)(C), (b) (6), (b) (7)(C), (b) (6), (b) (7)(C), (b) (6), (b) (7)(C), (b) (6), (b) (7)(C), and (b) (6), (b) (7)(C).

4a. Address (Street and number, city, state, and ZIP code)

(b) (6), (b) (7)(C)

4b. Tel. No.

4c. Cell No. (b) (6), (b) (7)(C)

4d. Fax No.

4e. e-Mail

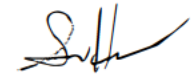
(b) (6), (b) (7)(C)

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) N/A

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By



(signature of representative or person making charge)

Sam Hensel, Attorney

(Print/type name and title or office, if any)

Tel. No.

(847) 624-1311

Office, if any, Cell No.

(312) 263-1500

Fax No. (312) 263-1520

e-Mail

SH@ulaw.com

12/07/2020

(date)

Address 200 West Jackson Blvd., Suite 720, Chicago, IL 60606

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 13
Dirksen Federal Building
219 South Dearborn Street, Suite 808
Chicago, IL 60604-2027

Agency Website: www.nlr.gov
Telephone: (312)353-7570
Fax: (312)886-1341



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December 8, 2020

Dan Wagner, CEO
Civis Analytics, Inc.
200 West Monroe Street
Chicago, IL 60606

Re: Civis Analytics, Inc.
Case 13-CA-269890

Dear Mr. Wagner:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Examiner Maria Guerrero whose telephone number is (312)353-0329 and whose email address is Maria.Guerrero@nlrb.gov. If this Board agent is not available, you may contact Supervisor Field Examiner Joyce A. Hofstra whose telephone number is (312)353-7609.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge by December 22, 2020. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor requests to limit our use of position statements or evidence. Specifically, any material you submit may be introduced as evidence at a hearing before an administrative law judge regardless of claims of confidentiality. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Further, the Freedom of Information Act may require that we disclose position statements or evidence in closed cases upon request, unless an exemption applies, such as those protecting confidential financial information or personal privacy interests.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Correspondence: All documents submitted to the Region regarding your case MUST be filed through the Agency's website, www.nlr.gov. This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not

have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to be 'P. Sung Ohr', written over a horizontal line.

Peter Sung Ohr
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

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Download
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December 8, 2020

(b) (6), (b) (7)(C)

Re: Civis Analytics, Inc.
Case 13-CA-269890

Dear (b) (6), (b) (7)(C):

The charge that you filed in this case on December 07, 2020 has been docketed as case number 13-CA-269890. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Examiner Maria Guerrero whose telephone number is (312)353-0329 and whose email address is Maria.Guerrero@nlrb.gov. If this Board agent is not available, you may contact Supervisor Field Examiner Joyce A. Hofstra whose telephone number is (312)353-7609.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Correspondence: All documents submitted to the Region regarding your case MUST be filed through the Agency's website, www.nlr.gov. This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, consisting of a stylized 'P' followed by a long horizontal stroke.

Peter Sung Ohr
Regional Director

cc: Sam Hensel, Attorney
200 West Jackson Blvd., Suite 720
Chicago, IL 60606



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

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Dirksen Federal Building
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Fax: (312)886-1341

March 3, 2021

Via electronic mail unless otherwise indicated

Sam Hensel, Attorney
200 West Jackson Blvd., Suite 720
Chicago, IL 60606
sh@ulaw.com

Re: Civis Analytics, Inc.
Case 13-CA-269890

Dear Mr. Hensel:

We have carefully investigated and considered your charge that Civis Analytics, Inc. has violated the National Labor Relations Act.

Decision to Dismiss: Your charge alleges that (b) (6), (b) (7)(C), (b) (6), (b) (7)(C), (b) (6), (b) (7)(C), (b) (6), (b) (7)(C), and (b) (6), (b) (7)(C), were discharged for discussing union organizing and bringing concerns about terms and conditions of employment to the attention of management in violation of Section 8(a)(1) and (3) of the Act. However, the evidence is insufficient to show that the named individuals were discharged for their protected concerted or union activities, or for reasons other than those advanced by the Employer.

Charging Party's Right to Appeal: The Charging Party may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: You must file your appeal electronically or provide a written statement explaining why electronic submission is not possible or feasible (Written instructions for the NLRB's E-Filing system and the Terms and Conditions of the NLRB's E-Filing policy are available at www.nlrb.gov. See [User Guide](#). A video demonstration which provides [step-by-step instructions](#) and frequently asked questions are also available at www.nlrb.gov. If you require additional assistance with E-Filing, please contact E-Filing@nlrb.gov.

You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. If you cannot file electronically, please send the appeal and your written explanation of why you cannot file electronically to the **General Counsel** at the **National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

Appeal Due Date: The appeal is due on **March 17, 2021**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than March 16, 2021. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before March 17, 2021**. The request may be filed electronically through the *E-File Documents* link on our website www.nlr.gov, by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after March 17, 2021, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

Confidentiality: We will not honor requests to limit our use of appeal statements or evidence. Upon a request under the Freedom of Information Act (FOIA) by a party during the processing of an appeal, the Agency's FOIA Branch discloses appeal statements, redacted for personal privacy, confidential source protection, or other applicable FOIA exemptions. In the event the appeal is sustained, any statement or material submitted may be introduced as evidence at a hearing before an administrative law judge. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Very truly yours,

/s/ Paul Hitterman

Paul Hitterman
Acting Regional Director


Enclosure

cc: Dan Wagner, CEO
Civis Analytics, Inc.
200 West Monroe Street
Chicago, IL 60606
dwagner@civisanalytics.com

Sarah Gasperini, Attorney
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nadine.abrahams@jacksonlewis.com

(b) (6), (b) (7)(C)





UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE GENERAL COUNSEL
Washington, DC 20570

April 7, 2021

ANGIE COWAN HAMADA, ESQ.
ALLISON, SLUTSKY & KENNEDY, P.C.
230 W MONROE ST STE 2600
CHICAGO, IL

Re: Civis Analytics, Inc.
Case 13-CA-269890

Dear Ms. Hamada:

We have received your appeal and accompanying material. We will assign it for processing in accordance with Agency procedures, which include review of the investigatory file and your appeal in light of current Board law. We will notify you by email, if an email address is provided, and all other involved parties as soon as possible of our decision.

Sincerely,

Iva Y. Choe
Acting Deputy General Counsel

A handwritten signature in black ink that reads "Mark E. Arbesfeld". The signature is written in a cursive, flowing style.

By:

Mark E. Arbesfeld, Director
Office of Appeals

cc: DANIEL N. NELSON
ACTING REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS
BOARD
DIRKSEN FEDERAL BLDG.
219 S DEARBORN ST STE 808
CHICAGO, IL 60604-2027


NADINE C. ABRAHAMS
JACKSON LEWIS P.C.
150 N MICHIGAN AVE STE 2500
CHICAGO, IL 60601

DAN WAGNER, CEO
CIVIS ANALYTICS, INC.
200 W MONROE ST
CHICAGO, IL 60606

DANA S. ELFVIN, ESQ.
JACKSON LEWIS, P.C.
150 N MICHIGAN AVE STE 2500
CHICAGO, IL 60601-7619

SARAH GASPERINI, ESQ.
JACKSON LEWIS P.C.
150 N MICHIGAN AVE STE 2500
CHICAGO, IL 60601

(b) (6), (b) (7)(C)

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kh



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE GENERAL COUNSEL
Washington, DC 20570

July 13, 2021

ANGIE COWAN HAMADA, ESQ.
ALLISON, SLUTSKY & KENNEDY, P.C.
230 W MONROE ST STE 2600
CHICAGO, IL 60601

Re: Civis Analytics, Inc.
Case 13-CA-269890

Dear Ms. Hamada:

Your appeal from the Acting Regional Director's refusal to issue complaint has been carefully considered. The appeal is denied substantially for the reasons in the Acting Regional Director's letter of March 3, 2021.

Your charge alleges that the Employer violated Sections 8(a)(1) and (3) of the National Labor Relations Act by discharging seven employees for discussing union organizing and bringing concerns about terms and conditions of employment to the attention of management. The evidence is insufficient to establish a violation.

To determine whether an employer's adverse action against an employee was discriminatorily motivated, the General Counsel must demonstrate by a preponderance of the evidence that the employee's protected activity was a motivating factor for the adverse decision; only after such showing is established, the inquiry turns to whether the employer would have taken the same action in the absence of the protected conduct. See *Wright Line*, 251 NLRB 1083 (1980), enfd. 662 F.2d 899 (1st Cir. 1981), cert. denied 455 U.S. 989 (1982). This evidence must be sufficient to establish that "a causal relationship exists between the employee's protected activity and the employer's adverse action against the employee." *Tschiggfrie Properties, Ltd.*, 368 NLRB No. 120 slip op. at 8 (2019).

Here, the evidence did not establish that the Employer's alleged actions were based on the alleged protected concerted activities, rather than work-related reasons. We concluded that there was insufficient evidence to establish a causal link between the Employer's adverse actions and the alleged union/protected concerted activities. Instead, the Employer had legitimate independent reasons for its decisions, and it would have taken the same action even in the absence of any alleged protected conduct.

Accordingly, your appeal is denied.

Sincerely,

Iva Y. Choe
Acting Deputy General Counsel



By:

Mark E. Arbesfeld, Director
Office of Appeals

cc: PAUL HITTERMAN
ACTING REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS
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219 S DEARBORN ST STE 808
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(b) (6), (b) (7)(C)



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